In the High Court for the States of Punjab and Haryana, at Chandigarh.

RSA No.4529 of 2005
Decided o September 27,2007.

Dharambir Goyal --Appellant.

vs.

Haryana Vidyut Parsaran Nigam and others -- Respondents.

Present: Mr.Deepak Sharma,Advocate, for the appellant.

Permod Kohli,J:

This is plaintiff's second appeal against concurrent findings of fact recorded by the Courts below.

Plaintiff filed a suit for mandatory and permanent injunction in the Court of Additional Civil Judge (Senior Division), Kurukshetra, against the defendants/respondents seeking restoration of electric connection bearing Account T-17/27 of Tubewell to his name and also seeking restraint order from transferring the said connection in the name of any other person. It is alleged in the suit that plaintiff and defendant No.2 were the joint owners of the land. A tubewell was existing on the joint property. Electric connection was obtained for the said tubewell, which was in the name of the plaintiff. He further stated that defendant No.2. in the suit obtained signatures of the plaintiff on some blank papers in good

faith and used the same to prepare a document of consent for change of the electric connection in his name. It is also alleged that he served a notice, but despite that defendant No.1 has changed the connection in favour of defendant No.2 on April 15,1999.

The defendants appeared and contested the claim of the plaintiff. Defendant No.2 mentioned that the tubewell was earlier existing in the joint land. However, the said land came to the share of defendant No.2 alongwith tubewell and the plaintiff, accordingly, signed an affidavit giving no objection/ consent for transfer of the electric connection in his name. Defendant Nos. 3 to 6 claim that they have purchased the land alongwith tubewell from defendant No.2 by virtue of sale deed dated April 20,1999 and tubewell in question is now owned by them.

On the basis of the evidence, the trial Court accepted the contention of the defendants and dismissed the suit vide its judgment and decree dated November 11,2004.

The plaintiff filed an appeal before the learned District Judge, Kurukshetra, which has also met with the same fate vide his judgment and decree dated May 10,2005.

Both the Courts have found that the plaintiff, who is an educated person had sworn an affidavit duly attested by Notary Public for transfer of electric connection in the name of defendant No.2. It has returned a finding that the land in question was sold by defendant No.2 to defendant Nos. 3 to 6 and tubewell is existing in the said land. It was,accordingly, held that the plaintiff being not owner of the property and having agreed for transferring the electric connection,cannot seek any relief.

I have heard learned counsel for the appellant.

His contention is that he signed some papers in good faith which were converted into affidavit. His further contention is that the affidavit is dated April 08,1999, which was produced before defendant/respondent No.1., but it was attested by Notary Public on April 12,1999. According to him, if the affidavit was filed before the authority on April 08,1999, how could it be attested by Notary on April 12,1999. The trial Court, however, found that this affidavit was filed with the authority alongwith the form, which was filled up on April 12,1999 and affidavit was also attested on the same day. The Appellate Court also found that the plaintiff's story of fabrication of affidavit is not believable in view of the fact that he has signed not only one, but two stamp papers which are part of the affidavit. Both the Courts also held that the land in question where the tubewell is existing, was sold by defendant No.2 to defendant Nos.3 to 6 by a valid sale deed and the plaintiff ceased to have any right over the property and the electric connection, which was validly transferred by defendant No.1.

In view of these concurrent findings of fact, no interference is warranted in the impugned orders. Moreover, learned counsel for the appellant has also not been able to show any substantial question of law. No merits.

This appeal is, accordingly, dismissed in limine.

Sept 27,2007 (Permod Kohli)
RR Judge